

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0181

HOUSE BILL NO. 1017

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the escape from a
2 nonsecure facility.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-11A-1 be amended to read as follows:

5 22-11A-1. The term, prisoner, as used in this chapter, includes every person who is in
6 custody by being under arrest or by being under process of law issued from a court of competent
7 jurisdiction, whether civil or criminal. A prisoner at the time of escape need not be in a place
8 designated for the keeping of prisoners.

9 The term, escape, as used in this chapter, means the departure without lawful authority or
10 the failure to return to custody following an assignment or temporary leave granted for a specific
11 purpose or limited period.

12 The term, nonsecure correctional facility, as used in this chapter, means a correctional
13 facility or placement that, while it may be locked at night, is generally not locked and not
14 secured by a fence, external wall, or security perimeter and used for the housing of persons who
15 are authorized to have unescorted access to the community for a specific purpose or limited



1 period.

2 The term, secure correctional facility, as used in this chapter, means a locked or secured
3 correctional facility with a perimeter wall or fence and locked entrances and exits.

4 Section 2. That § 22-11A-2 be amended to read as follows:

5 22-11A-2. Any escape by a prisoner constitutes first degree escape if the prisoner effects the
6 escape:

7 (1) By means of the use or threat of violence; ~~or~~

8 (2) From ~~physical confinement in a~~ secure correctional facility; or

9 (3) From the immediate custody of a law enforcement officer or Department of
10 Corrections employee.

11 First degree escape is a Class 4 felony.

12 Section 3. That § 22-11A-2.1 be amended to read as follows:

13 22-11A-2.1. Any escape by a prisoner constitutes second degree escape if the prisoner
14 effects the escape by means of failure to return to custody following an assignment or temporary
15 leave granted for a specific purpose or limited period or leaves a nonsecure correctional facility
16 without authorization. Second degree escape is a Class 5 felony.